

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PENDLETON DIVISION**

**MICHAEL JAMES EVANS,**

Plaintiff,

v.

**MICHELLE NELSON, et al.,**

Defendants.

No. 2:19-cv-01210-MK

**ORDER**

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AIKEN, District Judge.

This case comes before the Court on a Findings and Recommendation (“F&R”) filed by Magistrate Judge Mustafa Kasubhai. ECF No. 160. Judge Kasubhai recommends that Defendants’ Motion for Summary Judgment, ECF No. 119, be granted in part and denied in part.

Under the Federal Magistrates Act, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge’s findings and recommendations, “the court shall make a *de novo* determination of those portions of

the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”). Although no review is required in the absence of objections, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Id.* at 154. The Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court should review the recommendation for “clear error on the face of the record.”

In this case, Plaintiff has filed voluminous objections, ECF No. 168, and Defendants have filed their Response, ECF No. 182. The Court has reviewed the filings and the record and finds no error. The F&R, ECF No. 160, is ADOPTED and Defendants’ Motion for Summary Judgment, ECF No. 119, is GRANTED in part and DENIED in part as set forth in the F&R.

Defendants’ Motion for Summary Judgment is granted as to all state law medical malpractice claims.

Defendants’ Motion for Summary Judgment is granted as to all Defendants on Claims 1, 2, 3, 4, 5, 6, 7, 13, 14, and 15.

Defendants' Motion for Summary Judgment is granted as to Defendant Gruenwald and denied as to Defendant Norton on Claim 8.

Defendants' Motion for Summary Judgment is denied as to Defendants Norton and Patton and granted as to all other Defendants on Claim 11.

Defendants' Motion for Summary Judgment is denied as to Claims 9 and 12.

It is so ORDERED and DATED this 12th day of July 2023.

/s/Ann Aiken  
ANN AIKEN  
United States District Judge